

REMARKS

Applicant respectfully requests reconsideration of the instant application in view of the amendments, herein, and the following remarks:

The following claims were previously pending: 1-170. By this paper, claims 1-170 have been cancelled without prejudice or disclaimer. Claims 171-282 have been added. Therefore, claims 171-282 are submitted for Examination. Applicant respectfully requests reconsideration of the instant application in view of the amendments, herein, and the following remarks.

Applicant wishes to thank the Examiners for taking the time to discuss the pending rejections, cited reference and Applicant's claims during the Examiner Interview on November 30, 2009.

New Claims 171-282

As discussed above, Claims 1-170 have been cancelled and claims 171-282 have been added. Although these claims have been added herein to provide clarification, correct typographical inaccuracies and/or informalities, and/or to better track practical/commercial implementations/practices, Applicant submits that the originally filed claims are patentable and reserves the right to pursue the originally filed claims (as well as any claims dependent therefrom) at a later time and/or in one or more continuation/divisional application(s). Applicant submits that these new claims and/or claim amendments are supported throughout the originally filed specification and that no new matter has been added by way of these amendments.

New Claims 171-282 are fully supported by the Patent Application as originally filed and add no new matter. Among other places, the Examiner is specifically directed to Figs. 1-6, and to paragraphs [0147], [0141-0144], [0077, 0109], [0038-43, 0060-73], [0153, 0184, 0292-97, 0321, 0338], [0185-86, 0337], [0180, 0295], [00289-94], [0102-3, 0156, 0160, 0168], [0157, 0160] [0168-69, 0181, 0206], [0123, 0147-48, 0168-69], [Fig 2, 0104-5], [0123, 0147-48, 0168-69, 0206]. These figures and citations, among others, were specifically referenced and relied upon while drafting the various claim limitations of the new claim set.

The new claim set uses the term “entries” and it is pointed out that this term is further defined in the dependent claims. Please see claims 159-169 which serve to clarify and ensure definiteness of this term. Claim 227 has similar dependent claims that help clarify the term “entries”. Further, there is no requirement in the U.S. patent law for *pro haec verba* support in the specification for terms or phrases used in claims. With respect to the term “entries”, it is very well-known in the database art that a record of information (data) in a database that is stored (“entered”) as a unit and discretely accessible is commonly referred to as an “entry”. This terminology is also fully consistent with general usage, as exemplified in the current version of the Merriam-Webster Online Dictionary: “something entered: as (1) : a record or notation of an occurrence, transaction, or proceeding (2) : a descriptive record (as in a card catalog or an index)” and “a person, thing, or group entered into something (as a contest or market) <the latest *entries* in the computer market> <judge the *entries* in the writing contest>”

In the only two independent claims 171 and 227 submitted herewith for examination, first and second subsets of participants are recited. In accordance with paragraphs [0060]-[0074], each participant can serve multiple roles, such as inventor, rater, and/or expert

panelist, and can supply submissions and/or evaluations at multiple levels. Given that, the first and second subsets can be overlapping or non-overlapping, depending on the embodiment of the invention being implemented and the particular use cases encountered. Claims 225-226 and 281-282 recite both possibilities with respect to independent Claims 171 and 227, respectively.

In the new claims submitted herewith for examination, the “second evaluations” are supported, among other places, by paragraphs [0087], [0104-5], [0155-0156], [0180]. The “third evaluations” are supported, among other places, by paragraphs [0155-0156], [0160], [0296] and [0341]. The rating based on the first, second and third evaluations is supported, among other places by paragraphs [0018], [0106], and [0153].

Because the pending claims were rejected and then cancelled and the new claims submitted herein for examination are being added, Applicant will respond to the Examiner’s rejections and objections in light of the new claims in the sections below. That is, the sections below explain how the new claims overcome the Examiner’s rejections of the previously rejected claims which were cancelled without prejudice or disclaimer.

Claim Rejections - 35 U.S.C. § 101

The Office Action rejected claims 134-140 and 155-170 under 35 U.S.C. § 101. These claims are cancelled herein. The newly-added Claims 171-282 have been drafted to conform with 35 U.S.C. § 101. By way of non-limiting example, only, newly-added independent claims 171 and 227 (and the claims directly or indirectly dependent thereon) are method claims that are tied to a particular machine or apparatus, respectively reciting “a computer server system programmed for collective evaluation of a set of entries by a plurality of participants... .”

Furthermore, by way of non-limiting example only, Applicant notes that independent claims 177 and 227 each also recite, "...the computer server system providing to a particular participant an output containing information that is based at least in part on the rating." Accordingly, Applicants submit that the pending claims recite statutory subject matter in accordance with 35 U.S.C. § 101. Accordingly, Applicant respectfully requests the Examiner to withdraw all claim rejections under 35 U.S.C. § 101.

Claim Objections

The Office Action, section 5, objected to Claims 156, 158, and 162-165 for failing to further limit the subject matter of a previous claim. Examiner stated that cancelling these claims would overcome the objections. These claims have all been cancelled. The new claims have been drafted to avoid these objections. Accordingly, Applicant respectfully requests the Examiner to withdraw all objections.

Claim Rejections - 35 U.S.C. § 112

The Office Action rejected claims 155-156 and 157-170 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims have been cancelled. Applicant has drafted the new claims, as discussed above, to more particularly point out the subject matter the applicant regards as his invention and to avoid any further rejections under 35 U.S.C. § 112. Note from claims 171, 172, 225, and 226, it is now clear how all the method actions are performed by, and thus, tied to a particular machine or apparatus. Also,

more definite language was used to make more clear how the system is carrying out the new claims as drafted herein. Accordingly, Applicant respectfully requests the Examiner to withdraw all claim rejections under 35 U.S.C. § 112.

Claim Rejections - 35 U.S.C. § 102(e) and 35 U.S.C. § 103

The Office Action rejected claims 134-140 under 35 U.S.C. § 102(e) as being unpatentable over Gabrick et al (US 2004/0073443) (hereinafter “(Gabrick”). The Office Action also rejected Claims 155-170 under 35 U.S.C. § 103 as being unpatentable over Gabrick. All of Claims 134-140 and 155-170 have been cancelled without prejudice or disclaimer. Applicant respectfully traverses the points of rejection with regard to these cancelled claims, which are rendered moot by their cancellation, but reserves the right to argue those points should that become relevant in the future.

Applicant respectfully submits that the new claims overcome the above prior art rejections. Specifically, as per claim 171, Gabrick fails to teach or suggest:

the computer server system receiving from a second subset of the plurality of participants second evaluations evaluating the first evaluations;

the computer server system deriving third evaluations of respective ones of the plurality of participants based at least in part on a plurality of the second evaluations; and,

the computer server system rating the entries based at least in part on the first, second and third evaluations.

Applicant submits that none of these actions are contemplated or suggested by Gabrick. First, Gabrick has no concept of “the computer server system receiving from a second subset of the plurality of participants **second evaluations evaluating the first evaluations**. Second, Gabrick has no concept of “the computer server system

deriving third evaluations of respective ones of the plurality of participants based at least in part on a plurality of the second evaluations.” Third, Gabrick has no concept of “the computer server system rating the entries based at least in part on the first, second and third evaluations.”

Applicant submits that Gabrick contemplated simple averaging of all (first) evaluations (ratings) received from participants. However, Gabrick did not teach or suggest the above recited “second evaluations” received from participants. Gabrick does provide for weighting of ratings components, as the Examiner points out with citations to Gabrick’s paragraphs [0199, 0541-0549], but Gabrick’s weightings are based on pre-determined importance levels of question responses that make up a Question Set. For example, all question responses relating to rating to “Marketing” factors can be ascribed 30% of a total rating score, while all question responses relating to rating to “Technical” factors can be ascribed 70% of a total rating score. This weighting is within a Question Set for each participant and applied uniformly to every participant submission relating to a given Innovation Type for all first evaluations at the time the questions are created, and the “first evaluations” themselves are never rated (a “second evaluation”), but are instead merely component-weighted, based on these predetermined weightings, to derive a composite rating score for each set of responses to each Question Set. That is, the responses to the Question Set and the pre-determined weighting of the responses together provide “the first evaluations” corresponding to *each participant*.”

Gabrick’s paragraphs [0968-0999] explain how Question Sets are prepared and how weightings can be determined at the time the questions are formulated and how the questions should be weighted in importance in deriving a composite evaluation for each

participant based upon the answers to these questions. *Also see* “Administrator Functions” (heading above [0946]), where Gabrick specifically explains the process of creating Question Sets containing Analysis Factors in which “Each Analysis Factor has a percentage weight” [0969]. These weights are pre-set by administrators [0985, 0996] for a given “Innovation Type” [0999], “for example, one set of ratings might be used for healthcare ideas/innovations whereas another might be used for semiconductor innovations” [0198].

That is, Gabrick receives “first evaluations” in the form of question responses and generates a corresponding respective “rating” based upon a predetermined weighting of the question responses supplied in each of the “first evaluations.” This same weighting of the question responses is uniformly applied to the responses provided by each participant. These weightings do not constitute “second evaluations evaluating the first evaluations” (corresponding to ratings of ratings), as claimed, and further these weightings are made with respect to entire classes of entries, and not made with regard to first evaluations corresponding to evaluations of respective ones of the set of entries, as claimed, much less “based at least in part on ...second evaluations evaluating the first evaluations” “from participants.” Certainly, Gabrick does not teach or suggest the method recited in the pending claims as repeated below:

the computer server system **receiving from a second subset of the plurality of participants second evaluations evaluating the first evaluations;**

the computer server system **deriving third evaluations of respective ones of the plurality of participants based at least in part on a plurality of the second evaluations;** and,

the computer server system rating the **entries** based at least in part on the first, **second and third evaluations.**

Claim 227 is similar to Claim 171 and is patentable for similar reasons. However, in independent Claim 227, the word “entries” of the rating action of Claim 171 is replaced with “first evaluations” as indicated below:

the computer server system rating the **first evaluations** based at least in part on the second and third evaluations.

As discussed at length hereinabove with respect to independent Claim 171, and for the same reasons with respect to independent Claim 227, Gabrick does not teach or suggest the second evaluations or the third evaluations, nor does he teach or suggest: “the computer server system rating the first evaluations based at least in part on the first, second and third evaluations.”

For the reasons discussed above, Applicant respectfully submits that the new claims submitted herein for examination overcome all the Examiner’s rejections over 35 U.S.C. § 102(e) and 35 U.S.C. § 103 with respect to the herein-cancelled, previously-pending claims.

Request For Allowance

As indicated in the sections above, the new claims submitted herein overcome all of the Examiner’s objections and rejections under over 35 U.S.C. § 101, 35 U.S.C. § 112, and 35 U.S.C. § 102(e) and 35 U.S.C. § 103. Therefore Applicant respectfully submits that all pending claims herein are in condition for allowance. Applicant hereby requests the Examiner to issue a Notice of Allowance at the earliest possible time.

CONCLUSION

Applicant believes that the above remarks, which distinguish the claims over the cited reference(s), pertained only to noted claim element portions. These remarks are believed to be sufficient to overcome the prior art. While many other claim elements and/or bases for rejection were not discussed as they have been rendered moot based on the above amendments and/or remarks, Applicant asserts that all such remaining and not discussed claim elements and/or bases for rejection, serve to further distinguish the claims over the prior art and Applicant hereby reserves the opportunity to more particularly traverse, remark and distinguish over any and all prior art on the basis of any such remaining claim elements and/or traverse any additional bases for rejection at a later time, should it become necessary. Further, with respect to any remarks that were made in response to an Office Action objection and/or rejection as to any one claim element, and which may have been re-asserted as applying to another Office Action objection and/or rejection as to any other claim element(s), any such re-assertion of remarks is not meant to imply that there is commonality about the structure, functionality, means, operation, and/or scope of any of the claim elements, and no such commonality is admitted as a consequence of any such re-assertion of remarks. As such, Applicant does not concede that any claim elements have been anticipated and/or rendered obvious by any of the cited reference(s). Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection(s) and/or objection(s), and allowance of all claims.

Authorization

Applicant hereby authorizes and requests that the Commissioner charge any additional fees that may be required for consideration of this and/or any accompanying and/or necessary papers to Deposit Account No. 03-1240, Order No. 17245-009. In the event that an extension of time is required (or which may be required in addition to that requested in a petition for an extension of time), Applicant requests that the Commissioner grant a petition for an extension of time required to make this response timely, and, Applicant hereby authorizes and requests that the Commissioner charge any fee or credit any overpayment for such an extension of time to Deposit Account No. 03-1240, Order No. 17245-009.

In the event that a telephone conference would facilitate examination of the application in any way, Applicant invites the Examiner to contact the undersigned at the number provided.

Respectfully submitted,
CHADBOURNE & PARKE LLP

Dated: December 4, 2009

By: Walter G. Hanchuk/
Walter G. Hanchuk
Registration No.: 35,179

Correspondence Address:

CHADBOURNE & PARKE LLP
30 Rockefeller Plaza
New York, NY 10112

212-408-5100 (Telephone)
212-541-5369 (Facsimile)
patents@chadbourne.com (E-mail)